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OSI-Croatia's Openness Index and Initial Findings on Societal Openness in Croatia



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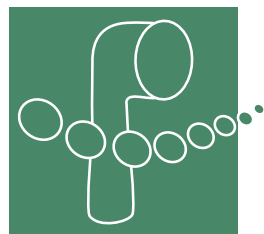
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OSI-Croatia's Openness Index* and Initial Findings on Societal Openness in Croatia



Overview

An open society is one that officially recognizes and protects individual and minority rights, one that limits governmental powers at all levels, one that benefits from vibrant, well-articulated civil-society institutions, one that relies upon a healthy market economy, one that allows all persons, regardless of their ethnicity, religion, race, or other distinctions, to partake fully in its social, political, and economic life. The Open Society Institute (OSI) is promoting the development of open, democratic societies in the world..

To this end, the Open Society Institute-Croatia (OSI-Croatia) is applying accepted social-science research methods -- including surveys and case studies -- to create a new instrument for examining the social, political, and economic realities of a given society and assessing its degree of openness, or inclusiveness.

OSI-Croatia is developing this instrument, the Openness Index, with several applications in mind. First, the Openness Index is designed to identify institutional or structural obstacles to the development of an open society, which


will, among other things, help open-society advocates develop and promote public policies and programs specifically aimed at overcoming these obstacles. The Index is also being designed to plot, over time, a society's progress toward openness, which might help improve evaluation of the effectiveness of policies, programs, and advocacy efforts. Finally, the Index is intended to generate comparisons of the degree of openness of the societies in Central, Eastern, and Southeastern Europe, so decision-makers and open-society advocates in one country can learn from the successes and failures of policies, programs, and advocacy efforts in other countries.

Methodology

The Openness Index uses both quantitative and qualitative methods to assess societal openness.

On the quantitative side, the Index uses statistical analysis of results from a survey of experts and a public-opinion survey. The survey of experts is designed to assess societal openness in six areas considered

*The Openness Index is referred to as the "Open Society Index" in the full report, "Openness of Society, Croatia, 2005."



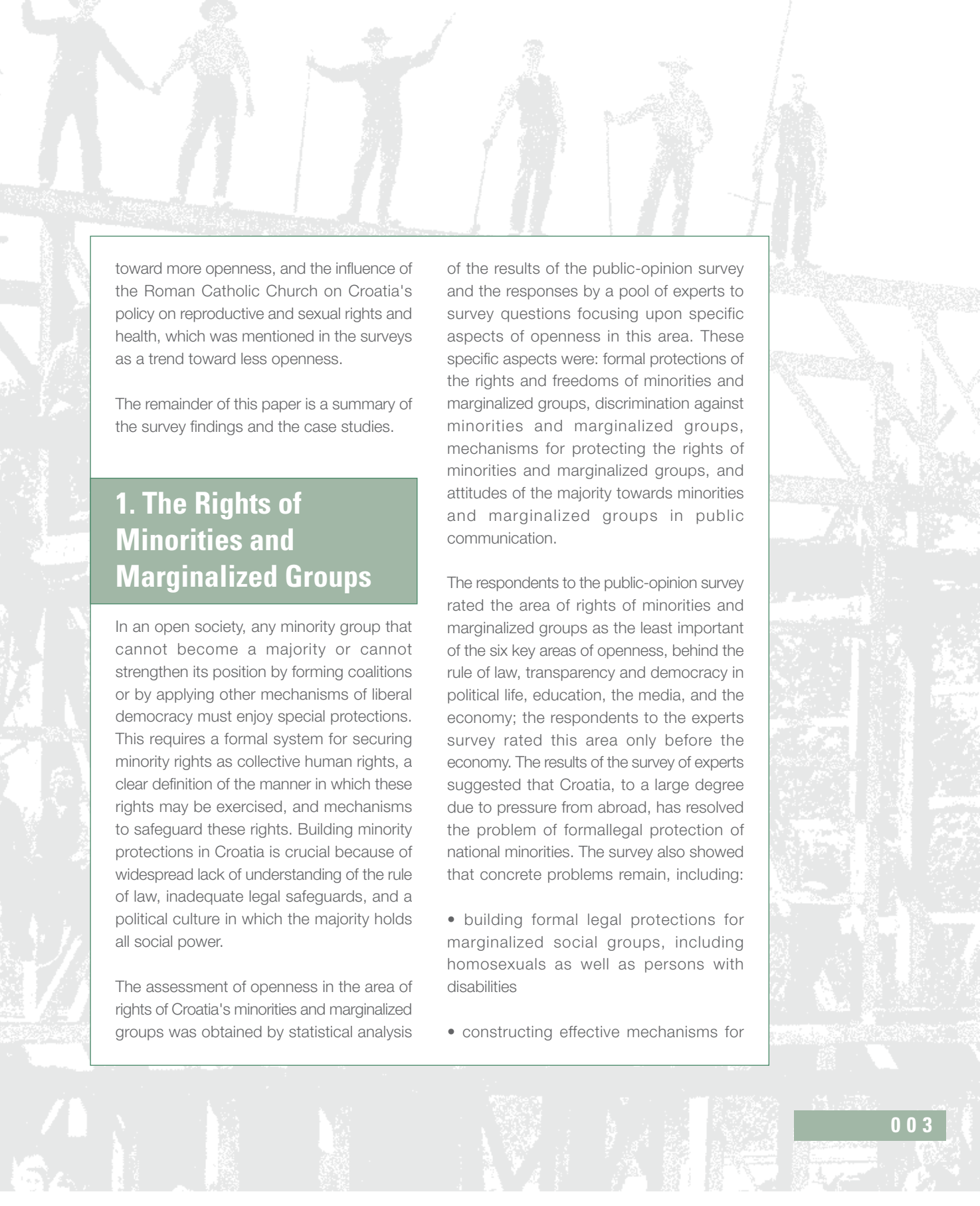
fundamental to any truly democratic and inclusive society. These six key areas are: the rights of minorities and marginalized groups, the education system, the rule of law, the degrees of openness in the economy and the media, and the degree of democracy and transparency of political processes. The survey asks experts from these same areas -- for example, human-rights workers, educators, attorneys, economists, media professionals, and political scientists -- to rate the degree of openness in various aspects of these six areas. This rating is done using a numerical scale; for example, a rating of one for a given aspect might indicate no openness, and a rating of seven might indicate complete openness. Statistical analysis of survey results generates average values for each of the six areas. By averaging the values for these six areas, the Openness Index can generate a single score for the society's overall degree of openness. The public-opinion survey assesses how familiar the general public is with the idea of an open society, how familiar the general public is with the six areas mentioned above, and how the public rates the relative importance of these six areas.

The qualitative dimension of the Openness Index stems from responses to open-ended questions that appear in the expert surveys. Specifically, these open-ended questions ask the respondent experts to describe as many as three phenomena -- for example,

controversial incidents or trends -- that have contributed to their society becoming more or less inclusive. Frequently cited phenomena become the focus of case studies, which provide in-depth description and analyses of the selected phenomena.

Trial Application in Croatia

As a test of the Index itself, the OSI-Croatia applied its latest version to assess the openness of society in the Republic of Croatia. To this end, the OSI-Croatia and its collaborators crafted questionnaires for both the survey of experts and the public-opinion survey, developed a database of experts to serve as respondents, and contracted a polling company to present the public-opinion survey to a representative, randomly selected sample of 1,500 adult citizens of Croatia. Both the expert survey and public-opinion survey were conducted in February 2005. Simultaneously, OSI-Croatia commissioned case studies on two of the most sensitive questions facing Croatia today: the position of Croatia's Serbian national minority, which was mentioned in the experts survey as trend



toward more openness, and the influence of the Roman Catholic Church on Croatia's policy on reproductive and sexual rights and health, which was mentioned in the surveys as a trend toward less openness.

The remainder of this paper is a summary of the survey findings and the case studies.

1. The Rights of Minorities and Marginalized Groups

In an open society, any minority group that cannot become a majority or cannot strengthen its position by forming coalitions or by applying other mechanisms of liberal democracy must enjoy special protections. This requires a formal system for securing minority rights as collective human rights, a clear definition of the manner in which these rights may be exercised, and mechanisms to safeguard these rights. Building minority protections in Croatia is crucial because of widespread lack of understanding of the rule of law, inadequate legal safeguards, and a political culture in which the majority holds all social power.

The assessment of openness in the area of rights of Croatia's minorities and marginalized groups was obtained by statistical analysis

of the results of the public-opinion survey and the responses by a pool of experts to survey questions focusing upon specific aspects of openness in this area. These specific aspects were: formal protections of the rights and freedoms of minorities and marginalized groups, discrimination against minorities and marginalized groups, mechanisms for protecting the rights of minorities and marginalized groups, and attitudes of the majority towards minorities and marginalized groups in public communication.

The respondents to the public-opinion survey rated the area of rights of minorities and marginalized groups as the least important of the six key areas of openness, behind the rule of law, transparency and democracy in political life, education, the media, and the economy; the respondents to the experts survey rated this area only before the economy. The results of the survey of experts suggested that Croatia, to a large degree due to pressure from abroad, has resolved the problem of formal legal protection of national minorities. The survey also showed that concrete problems remain, including:

- building formal legal protections for marginalized social groups, including homosexuals as well as persons with disabilities
- constructing effective mechanisms for

monitoring and protecting the rights of minorities and marginalized groups and overcoming the lack of engagement by the public and political leaders in this issue

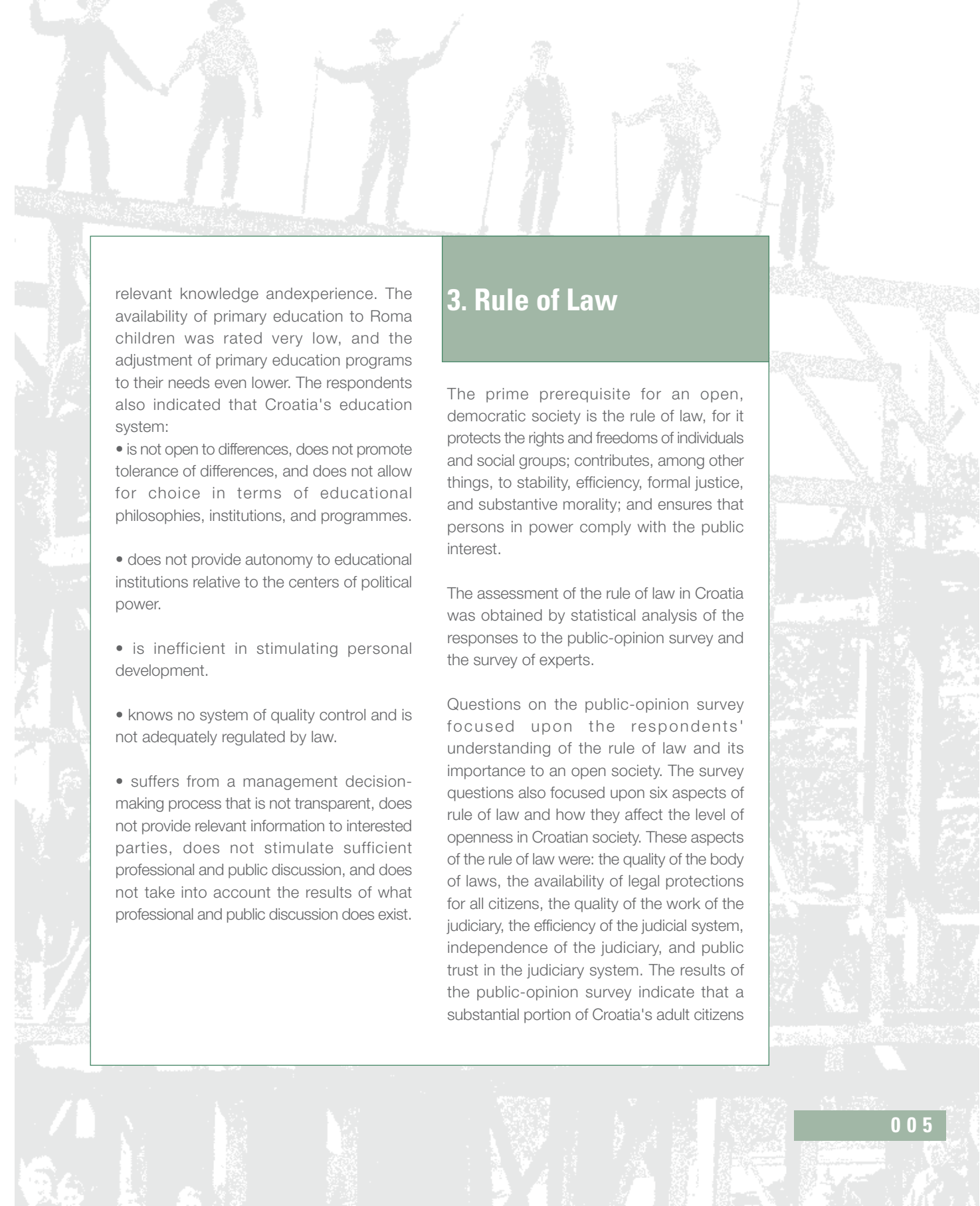
- improving the speed and efficiency of state agencies, especially the police, in responding to violations of the minority rights and freedoms of Serbs
- improving communication between the majority and minority and marginalized groups and the confidence of members of the minority groups and marginalized groups in the justice system
- overcoming the lack of public sensitivity to discrimination against homosexuals, and bridging the social gap between Roma and the broader population
- eliminating employment discrimination against persons with disabilities and homosexuals, and overcoming the inequality of women in the family

2. Education

Development of an inclusive society depends upon education, because it is a generator of societal openness.

The assessment of the openness of Croatia's education system was obtained by statistical analysis of responses by a pool of experts to survey questions focusing upon specific aspects of openness in education. These aspects were: the opportunity of all citizens to participate in the education system; the autonomy and efficiency of educational system; oversight and legal regulation of the education system; the degree to which the education system provides choices and promotes understanding and tolerance of human differences; the possibility and efficiency of public discussion of educational problems and their possible solutions; and the transparency of education institutions and availability of information on their work and decision-making. The survey asked the expert respondents to rate on a scale of one to seven to what extent Croatia's education system fulfills each of these criteria.

The results of the Openness Index survey of experts indicate that Croatia's education system discriminates against persons who are among society's most vulnerable: people with disabilities and special needs, including Roma. The physical adjustment of school facilities to disabled children was rated extremely poor; and the capacity of the education system to provide teaching instruments and aids to children with special needs was rated very low, as was the ability of the education system to provide disabled persons and persons with special needs



relevant knowledge and experience. The availability of primary education to Roma children was rated very low, and the adjustment of primary education programs to their needs even lower. The respondents also indicated that Croatia's education system:

- is not open to differences, does not promote tolerance of differences, and does not allow for choice in terms of educational philosophies, institutions, and programmes.
- does not provide autonomy to educational institutions relative to the centers of political power.
- is inefficient in stimulating personal development.
- knows no system of quality control and is not adequately regulated by law.
- suffers from a management decision-making process that is not transparent, does not provide relevant information to interested parties, does not stimulate sufficient professional and public discussion, and does not take into account the results of what professional and public discussion does exist.

3. Rule of Law

The prime prerequisite for an open, democratic society is the rule of law, for it protects the rights and freedoms of individuals and social groups; contributes, among other things, to stability, efficiency, formal justice, and substantive morality; and ensures that persons in power comply with the public interest.

The assessment of the rule of law in Croatia was obtained by statistical analysis of the responses to the public-opinion survey and the survey of experts.

Questions on the public-opinion survey focused upon the respondents' understanding of the rule of law and its importance to an open society. The survey questions also focused upon six aspects of rule of law and how they affect the level of openness in Croatian society. These aspects of the rule of law were: the quality of the body of laws, the availability of legal protections for all citizens, the quality of the work of the judiciary, the efficiency of the judicial system, independence of the judiciary, and public trust in the judiciary system. The results of the public-opinion survey indicate that a substantial portion of Croatia's adult citizens

do not understand the concept of the rule of law. In terms of its importance to an open society, the respondents ranked the rule of law only third, behind education and democratic political decision-making.

The questions in the expert survey focused upon the same aspects of rule of law and how they affect the level of openness in Croatian society.

In terms of its importance to an open society, the experts from all the areas surveyed ranked the rule of law first. The survey of experts had 125 respondents; however, only eight of them were legal experts, making it impossible to use the results of the experts survey to derive generalizations about the rule of law in Croatia. The experts survey was useful, however, because it helped identify aspects of the area of the rule of law for future attempts to measure the openness of society. Also, the results of the survey of experts suggested that Croatia faces problems in aspects of the rule of law, particularly in the efficiency of its judicial institutions and in public confidence in its judicial institutions. The legal experts who responded to the survey cited the following problems:

- lack of judicial independence, excessively long court proceedings, frequent expiration of the statute of limitations due to the inefficiency of the courts, lack of transparency in the judicial system, inadequate evaluation of judges, frequent remands of cases by

appeals courts to a lower courts due to errors

- a lack alternative methods for resolving disputes
- overly high attorney fees
- slow response by the State Attorney's Office to rights violations

4. Economic Freedoms and Entrepreneurship

In economic terms, an open society is one that enjoys a functioning market that is as free of the predations of robber-baron capitalists as it is of the suffocating effects of state bureaucracies.

The assessment of the economic dimension of the openness of society in Croatia was obtained by statistical analysis of the responses to the public-opinion survey and the survey of experts. Questions on the public-opinion survey focused upon the respondents' understanding of importance of the economy to societal openness. Questions on both the public-opinion survey and the survey of experts focused upon six aspects of economic life and how they affect the level of openness in Croatian society. These aspects of economic life were:

oversight and legal controls, equality in market competition, the possibility and effectiveness of public debate, transparency and access to information, autonomy and efficiency, and the possibility of participation in market competition.

The results of the public-opinion survey display a public attitude in Croatia that might be interpreted as a preference for a closed society in the realm of the economy. For example, just 10.9 percent of the respondents identified an open society as one "...which has no borders, in which there is complete freedom of movement of persons, goods, and capital." Moreover, 46.8 percent of the respondents fully agreed with a ban on selling Croatian companies to foreigners.

The results of the survey of experts rated the economy as the least important of the six areas considered fundamental to any truly democratic and inclusive society. In the economic realm, the respondents placed the greatest importance on oversight and legal controls, which may signal a desire for correcting the inequities of past privatizations and not an understanding of the importance of a legal infrastructure for the functioning of a free market. The respondents to the survey of experts also did not attribute significant importance to international economic openness. Responses to the survey of experts also indicated concern for:

- increasing the efficiency, independence, and competence of the judiciary

- increasing protection for creditors
- increasing transparency in the privatization process
- depoliticizing the management of public companies
- strengthening Croatia's Antitrust Commission
- deepening the dialogue between the private and public sectors

5. The Media

Free discussion of issues is essential for sound political, economic, and social decision-making in an open society. Diverse groups of people presenting a diversity of facts and opinions through the mass media are fundamental to a free and informed debate. As in other post-Communist states, the struggle to develop open media in Croatia has been one of wresting the media from control of the state and political leaders and parties.

The assessment of the media and openness of society in Croatia was obtained by statistical analysis of responses to the public-opinion

survey and the survey of experts. The public-opinion survey provided data on the popular understanding in Croatia of media openness and the readiness of Croatia's citizens for media openness. On the one hand, more than half of the respondents in the public-opinion survey rated media freedom as extremely important for the overall openness of society. On the other hand, however, 28.5 percent agreed that the media should not publicize anything that might run counter to the interests of the state and, overall, the respondents ranked media freedom fifth on the list of six areas of fundamental importance to the openness of society.

The survey of experts asked the respondents to rank the importance of specific aspects of media openness and the extent of their application or presence in Croatia's media. These aspects of media openness were: the independence and autonomy of the media; professionalism; the degree of openness of the media market, that is, the degree of absence of monopolies; the openness of media programs and editorial policies; the legal framework of the media system; and the effectiveness of civil society institutions. The survey of experts rated the media and media freedom fourth among the six areas of fundamental importance to the openness of society. The respondents noted that Croatia's media had played a positive role in disclosing and reporting scandals, that journalists had become more independent,

that the media had shown a higher level of tolerance toward Croatia's Serbs, Roma, and other ethnic minorities as well as marginalized groups, but that media reporting on minorities was still inadequate. The respondents highlighted several problems, including:

- instances of interrogation of journalists by the secret services
- the need for better education of journalists and editors
- expansion of the role of civil society in media monitoring to ensure that the media serve the public interest
- the need to reduce monopoly ownership of the print media and for greater transparency of ownership of media companies, especially the electronic media companies

6. The Degree of Democracy and Transparency in Political Processes

In transitional societies like Croatia's, politics plays a greater role than it does in more-advanced democratic societies with powerful economies and well-developed civil-society institutions. Changes in the political systems

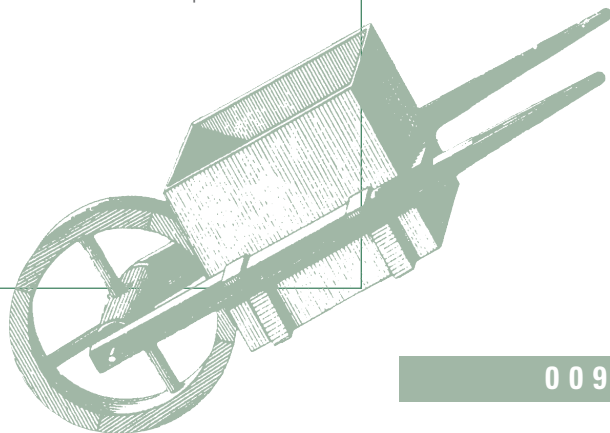
of transitional societies help determine the degree of openness in such societies.

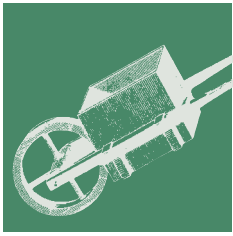
The assessment of the degree of democracy and transparency in Croatia's political processes was based upon statistical analysis of responses in the survey of experts. Survey questions asked the respondents to rate the degree of democracy and transparency in political processes and focused upon six specific aspects of democracy in political life: the extent to which citizens can become involved in political processes; the extent to which the rule of law governs the political process; transparency and access to information; the degree of responsiveness of state organs and officials to the citizens' demands; the degree of autonomy in the system, which refers to the division of powers, checks and balances, and inter-institutional controls; and the degree of professionalism and rationality, that is the extent to which political elites and citizens to cast aside prejudices and forsake short-term interests for the public good.

The survey of experts indicated, among other things, that the degree of autonomy, that is, the division of powers, checks and balances, and inter-institutional controls, was ranked highest, thanks mostly to relatively high ratings of the independence of Croatia's judiciary, its Constitutional Court, and its media. The experts gave their lowest rating to the degree of responsiveness of state organs and officials

to the citizens' wishes; the rating they gave the degree to which the rule of law governs the political process was little higher. The final average rating for the degree of transparency and democracy in Croatia's political processes was lower than the average given to any one of the other areas. Based upon these results, one might argue that politics is the principal agent responsible for the lack of openness in Croatian society. The respondents highlighted several problems in the political realm, including:

- inadequacies in public administration, electoral laws, and the methods political parties use to organize and finance themselves
- insufficient openness of political institutions and political elites to the public and an apparent inability to respond to initiatives from civil society
- conflicts of interest and a lack of responsibility on the part of political elites, inadequate checks and balances between the legislative and executive branches, and inadequate institutions of independent civil oversight





Case Study: Croatia's Serbian National Minority in 2004, A Trend Toward More Openness

Perhaps Croatia's most-challenging political and social issue is the treatment of national minorities, and the Serb national minority in particular. From 1991 to 2001, Croatia suffered a precipitous decline in its Serb population: some 300,000 Serbs left the country, reducing the Serb share of Croatia's overall population from 13 percent to 4.5 percent. An estimated 200,000 refugees from Croatia, mainly Serbs, still reside in Serbia and Montenegro, in Bosnia and Herzegovina, and in other countries. The Serb exodus has not been sufficiently articulated as a problem in Croatia. The aim of this case study is to begin developing a clear picture of the present status of Croatia's Serb minority.

Method

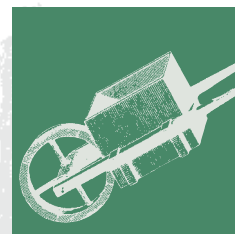
This case study was based upon analysis of media reports, analysis of documents and reports by international and local NGOs, observation of a conference on housing in war-affected areas, individual and group interviews with 10 members of minorities, and consultations with UNHCR representatives.

Conclusions

Pursuant to many international agreements and political accession criteria imposed by the European Union, the Republic of Croatia has worked to remove the negative consequences of the war and to improve relations between the majority Croatian people and the members of the Serbian minority. Croatia's Constitutional Act on the Rights of National Minorities of 2002 has, in the opinion of many analysts, given Croatia a sound framework for dealing with legal regulation of minority rights. Government policies since 2000 and concrete efforts by the Sanader Government have also improved matters. However problems, including those described below, remain.

- Discrimination against the Serbs still exists, particularly in the justice system, in social protection, in employment, and in resolving property disputes.
- Serbs face obstacles to exercising their right to political participation at the regional and local levels.
- The Croatian public and some political leaders still express deep ambivalence toward attempts by members of the Serbian minority to exercise their constitutional rights to assert their identity through various symbols and through the media.

Case Study: The Catholic Church's Influence on Reproductive and Sexual Rights and Health, A Trend Toward Less Openness



The aim of this case study is to describe and identify characteristics of the influence that the Catholic Church has brought to bear on the legislative and policy-making process in relation to human sexuality and reproduction, and especially the right to the voluntary interruption of pregnancy, the right to medically assisted fertilization, the right to sex education and information on sexuality, and the equality of sexual minorities.

The Croatian Constitution enshrines the separation of church and state. But the Roman Catholic Church can exercise a powerful influence over the country's leaders and decision-making bodies for a variety of reasons:

- Census figures show that Croatia's population is 87 percent Catholic.
- The Republic of Croatia and the Vatican have signed agreements that govern cooperation in education and culture, including catechism instruction in state pre-schools, primary schools, and secondary schools; Church-media relations; and state financing of Church institutions and employees.
- Under an agreement with Croatian Radio Television, the Church gained ten hours of television time each month, roughly 60 times more regular media exposure than any other religious community.

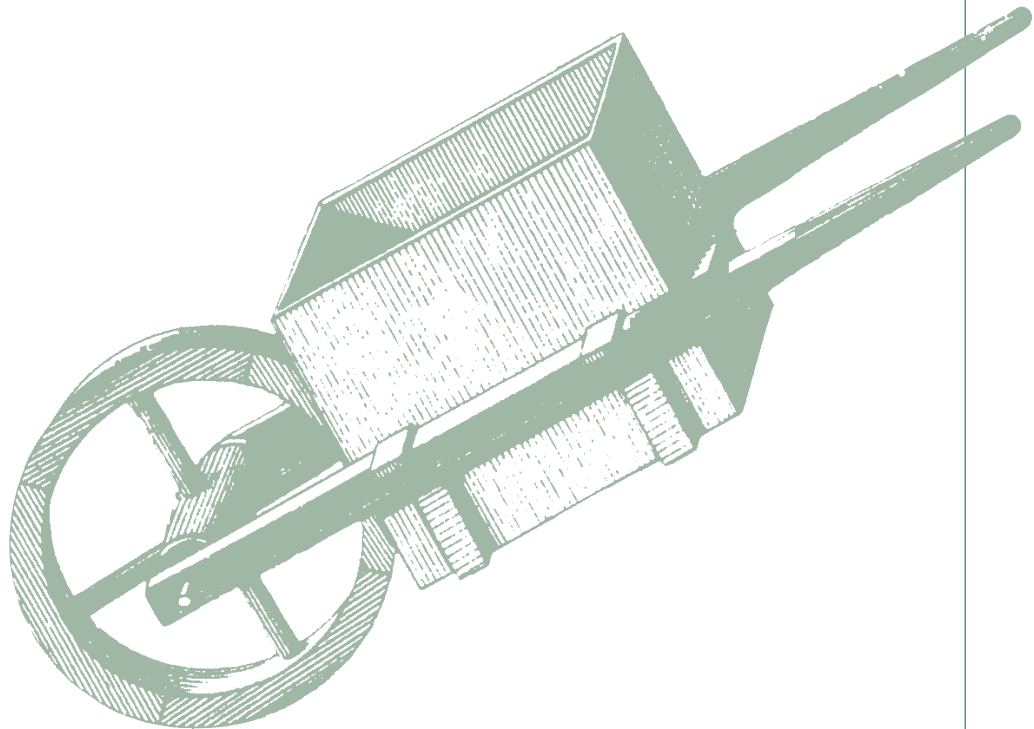
Method

The case study was based upon comparative analysis of official statements and documents by representatives of the Church and state institutions and by other stakeholders in the public debate; analysis of press articles; and semi-structured interviews and consultations with participants in the public debate.

Conclusions

The Roman Catholic Church in Croatia is attempting to exploit its favored position in Croatian society to assert Catholic morality as the only morality in a community that is neither *de jure* Christian or Catholic, nor *de facto* fully Christian or Catholic. This is apparent in the Church's efforts to change existing public policies on human sexuality and reproduction and other issues through public debate, the legislative process, the policy-making process, and policy-implementation efforts. The negative impact of the Roman Catholic Church on societal openness in Croatia is linked with its favored position in Croatian society and with the content of its dogma, which does not adequately take into account the fact that Croatian society is

heterogeneous in terms of needs, morality, and opinions with respect to sexuality and reproduction. Primary responsibility for limiting the Church's influence lies with the authorities and with state institutions responsible for ensuring the rule of law.



For the full report „Openness of Society, Croatia 2005“ and more information about the Open Society Forum project, please contact us via phone, email, fax or website:

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